

**MINUTES
INLAND WETLANDS AND WATERCOURSES COMMISSION
JULY 6, 2010**

MEMBERS PRESENT: Richard Girouard, Chairman
Arlyne Fox, Vice Chairman
John Lauria, Secretary
Lars Jorgensen
Richard Deecken
Kevin Chamberlain, Alternate (voting)
Frank Marcus, Alternate (voting)

ALSO PRESENT: Stephen Savarese, PE, LS Town Engineer
Mario F. Coppola, Town of Trumbull Attorney

The following is a brief summary of the meeting. A recording was made on tape and is on file in the office of the Town Engineer, Town Hall, Trumbull, CT.

The Chair convened the meeting at 7:30 p.m.
Commissioner Fox led the Commission in the Pledge of Allegiance.
Commissioner Lauria read the public hearing notice.

NOTICE OF PUBLIC HEARING

NOTICE IS HEREBY GIVEN THAT the Inland Wetlands and Watercourses Commission of the Town of Trumbull will hold a Public Hearing on Tuesday, July 6, 2010, at 7:30 p.m. in the Trumbull Town Hall Courtroom, 5866 Main Street, Trumbull, Connecticut, on the following application:

Application 10-09 Jennifer Borges Lindade. Permit approval to construct residential house, driveway, stormwater detention, sewer and water service, associated site grading and improvements in a regulated area at Lot 3 Oriole Lane.

Application 10-12 Bruce E. Adams. Permit approval to construct 2 story addition with 2 car garage; abandonment of existing septic system and construction of new septic system; rain leader retention, relocate driveway, and removal of buried oil tank in a regulated area at 126 Whitney Avenue.

Application 10-13 Maria L. Gomes. Permit approval to add top soil and reseed existing lawn; install 4' chain link fence at rear and side of property, 20'x9' water feature, 14'x8' shed and pour 14'x8' concrete slab in a regulated area at 48 West Mischa Road.

A copy of the application and maps are on file for public inspection in the Town Engineer's Office, Town Hall, Trumbull, Connecticut.

Dated at Trumbull, Connecticut this 9th day of June, 2010.
Richard H. Girouard, Sr., Chairman
Inland Wetlands and Watercourses Commission of the Town of Trumbull

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Public Hearing.

The Chairman opened the public hearing at 7:35 p.m.

Application 10-09 – Jennifer Borges Lindade. Permit approval to construct residential house, driveway, stormwater detention, sewer and water service associated site grading and improvements in a regulated area at Lot 3 Oriole Lane. David Bjorklund, professional engineer and president of Spath Bjorklund Associates of Monroe was present for the applicant. The certificate of mailings was submitted prior to the meeting. He stated the proposal is to develop the lot with a single family home and there is a small pocket of wetlands that are part of a larger wetland network that flows to the south to Thruswood Lake. He summarized the history of the lot, including wetlands' application 76-10 for a three lot subdivision and filling of the lots. He also said they went to Zoning Board of Appeals and received a 10 foot front line setback and the 40 foot setback on the plans creates a 10 foot buffer that allows a natural vegetation line. He highlighted stormwater detention, percolation tests, the mixed fill on the site, the definition of a significant impact activity and why this is not a significant activity. He stated the significant activity took place in 1976 and all prior work was done under a permit and prior to his client taking possession of the property. Mr. Bjorklund stated reasonable actions to protect wetlands now and in the future are incorporated in this plan. He also explained driveway runoff, roof runoff, detention, discharge, flows, under drains, infiltrators, and results during storm events.

The Commission had questions regarding activities, actions and violation on the site in 1999 by previous owners and whether the lot was filled in 1976 or 1999. Mr. Bjorklund stated the trees on the fill are 30 years old and the violation was resolved. Town Engineer, Steve Savarese gave a brief synopsis of the 1999 application. Mario Coppola, Town Attorney indicated further review of the 1999 application should be done and suggested the public hearing be continued.

Dave Bjorklund indicated they would finish the presentation and take comments from the public tonight.

Attorney James Cordone, representing neighbors stated he reserves the right to speak at the next public hearing.

Cynthia Rabinowitz, of HG Connsoil, LLC, Bethlehem, Connecticut, professional soil scientist, landscape designer was present. In October 2009 she delineated the wetlands on the site and went back in June 2010 to address questions from the Commission. She submitted her report dated June 23, 2010 into the record and gave an overview of her findings. She described the remaining wetland on the site, the native and evasive vegetation and composite piles of vegetation in the area. She also discussed the functions and values of the wetlands particularly the three functions she identified: ground water discharge and recharge; wildlife habitat; and flood flow alteration, storage and desynchronization. She stated the proposed activity will have no effects on the ecological community and functions and will not encroach on the wetland. She also highlighted the planned wetland protection, the buffer planting and landscaping plans, and removal of evasive species, debris and plantings on the site. Her conclusion is potential impact to the wetland from the proposed activity is limited with no greater runoff into the wetland and she believes the impact will improve the wetland. The Commission requested planting and tree cutting plans for the next meeting. They also requested the applicant research the 1999 violation and determine if there is soil testing and boring information available.

The Chairman asked if anyone from the public wished to speak.

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James Cordone, an attorney in Trumbull and previous Town attorney, was present on behalf of his parents whose property abuts this parcel. He stated the property is not in compliance with the 1999 order and he asked to have the wetlands pointed out to the public. He suggested the Commission determine status of the property as to whether or not it is in compliance with current regulations and deem this a complex application. He also reserved the right to comment when presentation is completed.

No one else from the public came forward.

Motion made (Lauria) seconded (Fox) to CONTINUE the public hearing on Application 10-09 (Lindade) to the September 7, 2010 meeting and the applicant is to provide the Commission with tree cutting and planting plans. Discussion. All in favor. MOTION CARRIED UNANIMOUSLY.

Application 10-12 – Bruce E. Adams. Permit approval to construct 2 story addition with 2 car garage; abandonment of existing septic system and construction of new septic system; rain leader retention, relocate driveway, and removal of buried oil tank in a regulated area at 126 Whitney Avenue. The certificate of mailings was submitted. Joseph Gluse, 48 Hunters Ridge Road, Shelton, Connecticut, a registered architect and Ronald Ochman of Easton, Connecticut, an engineer were present for the applicant. The proposed addition is 85 feet from the edge of the river. Mr. Ochman highlighted the plan, runoff, discharge, retention and drainage, grading and answered questions from the Commission. He stated the 100 year floodline has not been established by FEMA in this area. He submitted a map he drew up showing the general 100 floodline because FEMA has nothing set by elevation in that area. Based on the FEMA maps that are available he believes the house and addition are outside of the floodway. Borings and perc testing were done in 2008.

The Chairman asked if anyone from the public wished to speak.
No one from the public came forward.

Application 10-12 (Adams) Motion made (Fox) seconded (Deecken) to close public hearing. No Discussion. All in favor. MOTION CARRIED UNANIMOUSLY.

Application 10-13 Maria L. Gomes. Permit approval to add top soil and reseed existing lawn; install 4' chain link fence at rear and side of property, 20'x9' water feature, 14'x8' shed and pour 14'x8' concrete slab in a regulated area at 48 West Mischa Road. Not in attendance. Applicant did not do required mailings.

Motion made (Fox) seconded (Deecken) to close the public hearing at 8:50 p.m. No Discussion. All in favor. MOTION CARRIED UNANIMOUSLY.

The Chairman opened new business at 8:50 p.m.

Application 10-014 Daniel Giangrasso. Permit approval to install 14'x18' shed, side entrance door, 2 foot slab footing and run power and security in a regulated area at 46 Wildwood Drive. Mr. Giangrasso was present and stated he wants to build a shed on a slab. There will be a two foot hole for the slab and no fill will be brought in. There is an intermittent watercourse on his neighbor's property about forty feet from his property line. He will put up a silt fence to protect the watercourse.

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Motion made (Fox) seconded (Marcus) to RECEIVE Application 10-14 (Giangrasso). Discussion. All in favor. MOTION CARRIED UNANIMOUSLY.

Application 10-15 – Richard G. Kascak, Jr. Permit approval to demolish portion of existing deck, construct one story addition, handicap ramp, crawl space and footings in a regulated area at 660 White Plains Road. Richard Kascak, 127 Walnut Street Monroe, the applicant, was present and said the property is owned by his father. He submitted plans and photographs for the record and he highlighted the plans and photos. They are looking to make modifications to the house to accommodate his wife's needs. He summarized the history of the house that was built by his grandfather and stated the house is in a flood zone. There will be no impact on wetlands or the Pequonnock River.

Motion made (Lauria) seconded (Deecken) to RECEIVE Application 10-15 (Kascak). Discussion. All in favor. MOTION CARRIED UNANIMOUSLY.

Motion made (Fox) seconded (Deecken) to close new business at 9:10 p.m. No Discussion. All in favor. MOTION CARRIED UNANIMOUSLY.

The Chairman called a recess at 9:10 p.m.

The Chairman reconvened the meeting at 9:20 p.m.

Violations: The Chairman opened the show cause hearing at 9:20 p.m.

Joseph J. and Deborah E. Hyatt – 49 Moose Hill Road. Cease and correct order and notice of violation dated June 28, 2010 regarding Application 08-28. Joseph and Deborah Hyatt, Joe Liguori, 16 Millers Lane, Ridgefield, CT were present. Mr. Liguori stated they are looking for guidance from the Town and gave a brief history of some of the work that was done on the site. They are looking for answers and claim the Town had representatives at the site while the work was being done and the work was acceptable at that time. The town engineer, Steve Savarese gave a brief history of the time frame and the developments of the conditions of the permit. The Commission addressed the letter and conditions to Mr. Hyatt dated July 16, 2009 and the Chairman questioned Mr. Hyatt as to the status of each condition Mr. Hyatt stated he would provide the Commission with a copy of the soil scientist's report.

Mr. Liguori stated the swale was moved at the Noga's request and since then they have been waiting for clarification of what needs to be done next.

Mr. Savarese stated the conditions have not been completed. Mr. Hyatt claimed he was told he did not have to do the A-2/T-2 survey but the Commission did not recall waiving that condition. The Commission again advised Mr. Hyatt that all requested documentation needs to be submitted to be in compliance. The Chairman again stated the documents need to be certified and the work done by qualified professionals.

Attorney Coppola stated it is okay to hire professionals to comply with the tasks and the cease and desist does not prevent tests. One of the conditions is the work is to be done under the guidance of the Town Engineer. Mr. Hyatt stated he is working with Louis Ramunni of LPR Associates, Danbury.

The Commission recapped the following items and conditions that need to be addressed:

- Item number 2 – the soil scientist has to do enough testing uphill so it can be defined if there were wetlands that were filled in and to find the limits of the wetlands before it was filled;

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- Item number 3 – topographic survey to be done of the property – which will form the basis for items 4, 5, and 10;
- Item number 4 – professional engineer design the plunge pool and swale;
- Item number 5 – relates to item number 4;
- Item number 7 – no engineer's report was submitted so a bond was could not be calculated;
- Item 8 – no construction schedule was ever approved

Attorney Coppola asked Mr. Hyatt if he is willing to hire the required professionals to move forward and work with the town engineer and Mr. Hyatt stated there are funding problems. After required documentation, as detailed on list, are provided to the commission Mr. Coppola suggested the Commission will then make a decision as to whether a performance bond would be required prior to the commencement of any work.

Mr. Hyatt stated he will get all the stuff in order in order to move forward and he will hire a land surveyor to do the A2/T2 survey.

The Chairman asked if anyone from the public wished to speak.

Attorney Edward O'Hanlan, of Robinson & Cole, Stamford, Connecticut was present and represents Mr. and Mrs. Noga. David Bjorklund was also present. He submitted for the record copies of the Petition for Intervention, Request for Leave to File Amended Complaint, Data Accumulation Plan Map, correspondence from Spath-Bjorklund dated July 1, 2010 and from Steven Danzer, PhD & Associates dated June 24, 2010 and he briefly summarized each document.

Attorney O'Hanlan stated the petition requires Mr. Hyatt to provide him with copies of all documentation he submits to the Commission.

He stated the Noga's have been burdened by what Mr. Hyatt has done and his activities on his property are very serious. The slopes are not 3 to 1 and hinge on the Noga's property and the work Mr. Hyatt has to do is significant. He stated the location of the plunge pool and any work that Mr. Hyatt did was not done to accommodate the Nogas. He also said Mr. and Mrs. Noga were forced to sue Mr. Hyatt because everything he did caused hydrological changes that the Nogas have to deal with. He briefly outlined the reasons for filing the Complaint against Mr. and Mrs. Hyatt. Attorney O'Hanlan stated having the wetlands delineated is fundamental and needs to be done. He went over the map which shows the areas of encroachment and the slopes. He also stated he has looked at the minutes and there is nothing to suggest any of the regulations have been excused by the commission. Mr. and Mrs. Noga have had many expenses and inconveniences resulting from the Hyatt's actions and he believes the property needs to be brought into compliance with regulations that exist to protect neighbors and the environment.

Mr. Bjorklund, a professional engineer was also present and was asked who installed the silt fence on the Noga property and he replied he didn't believe the Nogas installed it. He also commented on the property line, fill, subdivision map, survey, and topographical features.

No one else from the public came forward.

Motion made (Fox) seconded (Deecken) to have the original Cease and Correct Order and Notice of Violation (Hyatt) remain in effect because the applicant did not show just cause why the Cease and Correct

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Order and Notice of Violation dated June 28, 2010 should be lifted. Discussion. All in favor. MOTION CARRIED UNANIMOUSLY.

Attorney Coppola indicated the public meeting has not been closed and Mr. Hyatt was given the opportunity to rebut.

Joseph Hyatt responded to comments made by David Bjorklund and the Commission and was again told to comply and hire professionals to help him fix the problems.

John and Emina Cook - 63 Moose Hill Road. Cease and correct order and notice of violation dated June 28, 2010 regarding Application 09-20. John and Emina Cook were present. Mr. Cook questioned why it was not disclosed when he bought the property that there were wetlands. He described the water flow in the area of his property and surrounding properties. He stated he could not fully comply with the September 2009 letter because he could not afford a survey or a soil scientist.

Steve Savarese stated on September 1 the removal of the brush was witnessed and the proper notice was provided and only items 1 and 2 remain.

Mr. Cook asked if he would be able to get copies of the pictures he is submitting and Attorney Coppola indicated that he could. Mr. Cook explained and described the pictures of neighboring properties and his property showing the property as it is now.

Mr. Cook addressed questions from the Commission regarding the original application and explained why he is unable to proceed at this point with getting an A2 survey and soil scientist. Steve Savarese stated if a soil scientist does not find wetlands then an A2 survey is not needed. Discussions took place regarding conditions on the site and what has been done and what remains to be done.

The Chairman asked if anyone from the public wished to speak.

Cyril Pavlov, 59 Moose Hill Road questioned if Mr. Cook was supposed to repair the swale after the trees were cut. Steve Savarese stated if it was damaged it should be fixed. Mr. Pavlov stated he thinks Mr. Cook should be able to repair the swale without having to get any permits or surveys and he stated the swale does affect his property. Steve Savarese stated a professional needs to make the decision regarding the swale. Mr. Pavlov inquired if a survey was ever done and Mr. Cook had a copy of a part of a A2 survey that was done for a garage in 2002. The Chairman said if an A2 was done then another one would not be required if a soil scientist agrees to use the one Mr. Cook has.

Mr. Pavlov has no problem with John increasing his property and he wants to see the swale maintained.

No one else from the public came forward.

Motion made (Fox) seconded (Lauria) to close show cause hearing at 11:10 p.m. No Discussion. All in favor. MOTION CARRIED UNANIMOUSLY.

The Chairman called a recess at 11:10 p.m.

The Chairman reconvened the meeting at 11:25.m.

Attorney Coppola left during break and did not return to the meeting.

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Work Session:

The Chairman opened the work session at 11:25.m.

After discussion and review, the Commission took action as follows:

Application 10-09 – Jennifer Borges Lindade – continued to the September, 2010 meeting. The Commission requested tree cutting and planting plans.

Motion made (Fox) seconded (Marcus) to APPROVE Application 10-12 (Adams), as submitted, subject to the General Conditions as established by the Commission and the following condition:

- Rip raping to be put in at the end of the roof drains that are dumping out onto the wetlands.

Discussion. All in favor. MOTION CARRIED UNANIMOUSLY.

Motion made (Chamberlain) seconded (Deecken) to DENY Application 10-13 (Gomes) without prejudice. Discussion. All in favor. MOTION CARRIED UNANIMOUSLY.

Motion made (Deecken) seconded (Fox) to APPROVE Application 10-14 (Giangrasso), as submitted, subject to the General Conditions as established by the Commission. Discussion. All in favor. MOTION CARRIED UNANIMOUSLY.

Motion made (Fox) seconded (Deecken) to APPROVE Application 10-15 (Kascak), as submitted, subject to the General Conditions as established by the Commission. Discussion. MOTION CARRIED 6 in favor (Girouard, Lauria, Fox, Jorgensen, Deecken, Marcus,) 1 against (Chamberlain).

Motion made (Fox) seconded (Deecken) to close work session at 11:45 p.m. No Discussion. All in favor. MOTION CARRIED UNANIMOUSLY.

There being no objections meeting minutes of June 1, 2010 and field inspection minutes of June 21, 2010 were accepted.

The Chairman opened discussion on Violations – Show Cause Hearing.

Motion made (Kevin) seconded (Marcus) to have the original Cease and Correct Order and Notice of Violation (Cook) remain in effect because the applicant did not show just cause why the Cease and Correct Order and Notice of Violation dated June 28, 2010 should be lifted. Discussion. All in favor. MOTION CARRIED UNANIMOUSLY.

Motion made (Fox) seconded (Deecken) to have the original Cease and Correct Order and Notice of Violation (Hyatt) remain in effect because the applicant did not show just cause why the Cease and Correct Order and Notice of Violation dated June 28, 2010 should be lifted. Discussion. All in favor. MOTION CARRIED UNANIMOUSLY.

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The Chairman opened discussion on pending Agenda of May 4, 2010.

Motion made (Deecken) seconded (Fox) to DENY Application 10-04 (Ferri) without prejudice for the following reasons:

1. Insufficient offset to protect wetlands;
2. Construction is too close to the wetland as evidenced in 10.2d, it does not maintain the existing environmental quality of the wetland;
3. The character and degree of injury to, or interference with, safety, health or the reasonable use of property which is caused or threatened by the proposed regulated activity as stated in Section 10.2e of the Regulations;
4. Impacts of the proposed regulated activity on wetlands or watercourses outside the area for which the activity is proposed and future activities associated with or reasonably related to, the proposed regulated activity which are made inevitable by the proposed regulated activity and which may have an impact on wetlands or watercourses as stated in Section 10.2f of the Regulations;
5. The environmental impact of the proposed regulated activity on wetlands or watercourses: including the effects on the inland wetland's and watercourse's capacity to support fish and wildlife, to prevent flooding, to supply and protect surface and ground waters, to control sediment, to facilitate drainage, to control pollution, to support recreational activities, and to promote public health and safety as stated in Section 10.2a of the Regulations;
6. The wetland will irrevocably be altered in a negative detrimental manner and the new construction will not be maintaining the existing environmental quality of the wetland;
7. Irreversible and irretrievable loss of wetland or watercourse resources which would be caused by the proposed regulated activity, including the extent to which such activity would foreclose a future ability to protect, enhance or restore such resources as stated in Section 10.2d of the Regulations;
8. House too big for the property;

After discussion, Mr. Deecken withdrew his motion and Mrs. Fox withdrew her second.

Motion made (Deecken) seconded (Fox) to DENY Application 10-04 (Ferri) without prejudice for the following reasons:

1. Insufficient buffer zone between the structure and the existing wetland boundary.
2. Other feasible and prudent alternates exist.

Discussion. MOTION CARRIED 6 in favor (Girouard, Fox, Jorgensen, Deecken, Marcus, Chamberlain) 1 abstention (Lauria).

Motion made (Chamberlain) seconded (Fox) to schedule a special work session on Application 10-03 (City of Bridgeport) on a date to be determined. Discussion. MOTION CARRIED 6 in favor (Girouard, Lauria, Fox, Jorgensen, Chamberlain, Marcus.) 1 against (Deecken).

Field Inspections:

No field inspections were scheduled.

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There being no objections the Chairman moved to adjourn the meeting at 12:35 p.m. No discussion.

Submitted by,
Joyce Augustinsky, Clerk of the Commission